

AMENDED IN SENATE MAY 12, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 4, 2005

**SENATE BILL**

**No. 535**

**Introduced by Senator Runner**

February 18, 2005

---

An act to amend Sections 17230, 17464, 47605, 47605.6, 47607, and 47634.2 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 535, as amended, Runner. Charter schools.

(1) Existing law permits the governing board of a school district to sell, at less than fair market value, a schoolsite deemed to be surplus property of the district to local entities for use as a park or recreational purposes or open-space purposes, with certain requirements.

This bill would, in addition, permit such a sale of surplus property to a charter school that is authorized by the school district or that serves pupils who reside in the school district for use as a charter school facility, and would require a charter school that purchases surplus property under these provisions to comply with certain restrictions regarding its use and disposal.

(2) The Leroy F. Greene State School Building Lease-Purchase Law of 1976 prescribes priorities and procedures for the sale or lease with an option to purchase real property by a school district.

This bill would, in addition to priorities specified in existing law, require that the property be offered for sale to a charter school that is authorized by the school district or that serves pupils who reside in the school district.

(3) Existing law prohibits a governing board from denying a petition to establish a charter school, unless it makes findings that the petition lacks specified elements.

The bill would, in addition, prohibit a governing board from denying a petition unless it makes findings that the petition lacks an assurance of compliance with either open meetings provisions or provisions governing the meetings of public benefit corporations contained in existing law, with certain exceptions.

The bill would, if a pupil is expelled from the charter school, require the charter school to notify the school district of residence of the pupil and would require a charter school to provide the district of residence of a pupil who is expelled or leaves the charter school without graduating or completing the school year for any reason with a copy of the cumulative file of that pupil, as specified, and with health information, thereby imposing a state-mandated local program.

(4) Existing law provides for the renewal of a charter and specifies that a renewal shall be for a period of 5 years.

This bill would, in addition and notwithstanding the above provision of existing law, provide that a charter may be renewed for a period of no less than 5 years and no more than 15 years if the charter school is seeking a loan from a lending institution, with certain requirements.

(5) Existing law requires teachers in charter schools to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold.

This bill would provide the intent of the Legislature that charter schools be given flexibility in this respect with regard to noncore, noncollege preparatory courses.

(6) This bill also makes various technical, nonsubstantive changes to existing law.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(8) This bill would incorporate additional changes in Section 47607 of the Education Code, proposed by SB 166, to be operative only if

SB 166 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17230 of the Education Code is  
2 amended to read:

3 17230. (a) Notwithstanding the provisions of Article 4  
4 (commencing with Section 17455) of Chapter 4 of this part and  
5 in addition to the requirements placed upon school districts  
6 pursuant to Section 54222 of the Government Code, the  
7 governing board of any school district may sell, for less than fair  
8 market value, any schoolsite that is deemed to be surplus  
9 property of the district, to a charter school that is authorized by  
10 the school district or that serves pupils who reside in the school  
11 district for use as a charter school facility, or a park district, city,  
12 or county in which the school district is wholly or partially  
13 situated for use or partial use as park or recreational purposes or  
14 open-space purposes, if the governing board adopts a resolution  
15 specifying that it will sell or transfer the property for less than  
16 fair market value for that purpose.

17 (b) The offer to sell surplus property shall be made in writing,  
18 but the terms by which the property may be sold or transferred  
19 need not be specifically provided.

20 (c) A charter school that purchases surplus property in  
21 accordance with subdivision (a) shall comply with all of the  
22 following restrictions:

23 (1) The property shall be used only for purposes of operating a  
24 charter school.

25 (2) The charter school shall not sell the property to any public  
26 or private entity.

27 (3) If the charter school ceases operations at the site of that  
28 property, ownership of the property shall revert to the school  
29 district that sold the property to the charter school.

30 SEC. 2. Section 17464 of the Education Code is amended to  
31 read:

32 17464. (a) Except as provided for in Article 2 (commencing  
33 with Section 17230) of Chapter 1 and Article 5 (commencing

1 with Section 17485) of Chapter 4, the sale or lease with an option  
2 to purchase of real property by a school district shall be in  
3 accordance with the following priorities and procedures:

4 (1) First, notwithstanding any other law, the property shall be  
5 offered to a charter school that is authorized by the school district  
6 or that serves pupils who reside in the school district, or it shall  
7 be offered for park or recreational purposes pursuant to Article 8  
8 (commencing with Section 54220) of Chapter 5 of Part 1 of  
9 Division 2 of Title 5 of the Government Code, in any instance in  
10 which that article is applicable.

11 (2) Second, the property shall be offered for sale or lease with  
12 an option to purchase, at fair market value in each of the  
13 following ways:

14 (A) In writing, to the Director of General Services, the  
15 Regents of the University of California, the Trustees of the  
16 California State University, the county and city in which the  
17 property is situated, to any public housing authority in the county  
18 in which the property is situated, and to any entity referenced in  
19 subparagraph (B) that has submitted a written request to the  
20 school district to be directly notified of the offer for sale or lease  
21 with an option to purchase the real property by the district.

22 (B) By public notice to any public district, public authority,  
23 public agency, public corporation, or any other political  
24 subdivision in this state, to the federal government, and to  
25 nonprofit charitable corporations existing on December 31, 1979,  
26 and organized pursuant to Part 3 (commencing with Section  
27 10200) of Division 2 of Title 1 of the Corporations Code then in  
28 effect or organized on or after January 1, 1980, as a public  
29 benefit corporation under Part 2 (commencing with Section  
30 5110) of Division 2 of Title 1 of the Corporations Code. Public  
31 notice shall consist of at least publishing its intention to dispose  
32 of the real property in a newspaper of general circulation within  
33 the district, or if there is no newspaper of general circulation in  
34 the district, then in any newspaper of general circulation that is  
35 regularly circulated in the district. The notice shall specify that  
36 the property is being made available to all public districts, public  
37 authorities, public agencies, and other political subdivisions or  
38 public corporations in this state, and to other nonprofit charitable  
39 or nonprofit public benefit corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or more often, with at least five days intervening between the respective publication dates not counting the publication dates, are sufficient. The written notice required by paragraph (1) shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the school district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may determine which of these offers to accept.

(3) Third, the property may be disposed of in any other manner authorized by law.

(b) A charter school that purchases surplus property in accordance with subdivision (a) shall comply with all of the following restrictions:

(1) The property shall be used only for purposes of operating a charter school.

(2) The charter school shall not sell the property to any public or private entity.

(3) If the charter school ceases operations at the site of that property, ownership of the property shall revert to the school district that sold the property to the charter school.

SEC. 3. Section 47605 of the Education Code is amended to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district, as long as each location is identified in the charter school petition. The petition may be submitted to the

governing board of the school district for review after either of the following conditions are met:

(A) The petition has been signed by a number of parents or guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.

(B) The petition has been signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.

(2) In the case of a petition for the establishment of a charter school through the conversion of an existing public school, that would not be eligible for a loan pursuant to subdivision (b) of Section 41365, the petition may be circulated by any one or more persons seeking to establish the converted charter school. The petition may be submitted to the governing board of the school district for review after the petition has been signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted.

(3) A petition shall include a prominent statement that a signature on the petition means that the parent or guardian is meaningfully interested in having his or her child, or ward, attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(4) After receiving approval of its petition, a charter school that proposes to establish operations at one or more additional sites within the jurisdictional boundaries of the school district shall request a material revision to its charter and shall notify the governing board of the school district of those additional locations. The governing board of the school district shall consider whether to approve those additional locations at an open, public meeting. If the additional locations are approved by the governing board of the school districts, they shall be a material revision to the charter school's charter.

(5) Notwithstanding subdivision (a), a charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school

1 district is located, if the school district where the charter school  
2 proposes to operate is notified in advance of the charter petition  
3 approval, the county superintendent of schools and the  
4 superintendent are notified of the location of the charter school  
5 before it commences operations and either of the following  
6 circumstances exist:

7 (A) The school has attempted to locate a single site or facility  
8 to house the entire program but such a facility or site is  
9 unavailable in the area in which the school chooses to locate.

10 (B) The site is needed for temporary use during a construction  
11 or expansion project.

12 (6) Commencing January 1, 2003, a petition to establish a  
13 charter school may not be approved to serve pupils in a grade  
14 level that is not served by the school district of the governing  
15 board considering the petition, unless the petition proposes to  
16 serve pupils in all of the grade levels served by that school  
17 district.

18 (b) No later than 30 days after receiving a petition, in  
19 accordance with subdivision (a), the governing board of the  
20 school district shall hold a public hearing on the provisions of the  
21 charter, at which time the governing board of the school district  
22 shall consider the level of support for the petition by teachers  
23 employed by the district, other employees of the district, and  
24 parents. Following review of the petition and the public hearing,  
25 the governing board of the school district shall either grant or  
26 deny the charter within 60 days of receipt of the petition,  
27 provided, however, that the date may be extended by an  
28 additional 30 days if both parties agree to the extension. In  
29 reviewing petitions for the establishment of charter schools  
30 pursuant to this section, the chartering authority shall be guided  
31 by the intent of the Legislature that charter schools are and  
32 should become an integral part of the California educational  
33 system and that establishment of charter schools should be  
34 encouraged. A school district governing board shall grant a  
35 charter for the operation of a school under this part if it is  
36 satisfied that granting the charter is consistent with sound  
37 educational practice. The governing board of the school district  
38 shall not deny a petition for the establishment of a charter school  
39 unless it makes written factual findings, specific to the particular

1 petition, setting forth specific facts to support one or more of the  
2 following findings:

3 (1) The charter school presents an unsound educational  
4 program for the pupils to be enrolled in the charter school.

5 (2) The petitioners are demonstrably unlikely to successfully  
6 implement the program set forth in the petition.

7 (3) The petition does not contain the number of signatures  
8 required by subdivision (a).

9 (4) The petition does not contain an affirmation of each of the  
10 conditions described in subdivision (d).

11 (5) The petition does not contain reasonably comprehensive  
12 descriptions of all of the following:

13 (A) (i) A description of the educational program of the school,  
14 designed, among other things, to identify those whom the school  
15 is attempting to educate, what it means to be an “educated  
16 person” in the 21st century, and how learning best occurs. The  
17 goals identified in that program shall include the objective of  
18 enabling pupils to become self-motivated, competent, and  
19 lifelong learners.

20 (ii) If the proposed school will serve high school pupils, a  
21 description of how the charter school will inform parents about  
22 the transferability of courses to other public high schools and the  
23 eligibility of courses to meet college entrance requirements.  
24 Courses offered by the charter school that are accredited by the  
25 Western Association of Schools and Colleges may be considered  
26 transferable and courses approved by the University of California  
27 or the California State University as creditable under the “A” to  
28 “G” admissions criteria may be considered to meet college  
29 entrance requirements.

30 (B) The measurable pupil outcomes identified for use by the  
31 charter school. “Pupil outcomes,” for purposes of this part,  
32 means the extent to which all pupils of the school demonstrate  
33 that they have attained the skills, knowledge, and attitudes  
34 specified as goals in the school’s educational program.

35 (C) The method by which pupil progress in meeting those  
36 pupil outcomes is to be measured.

37 (D) The governance structure of the school, including, but not  
38 limited to, the process to be followed by the school to ensure  
39 parental involvement.



1 (E) The qualifications to be met by individuals to be employed  
2 by the school.

3 (F) The procedures that the school will follow to ensure the  
4 health and safety of pupils and staff. These procedures shall  
5 include the requirement that each employee of the school furnish  
6 the school with a criminal record summary as described in  
7 Section 44237.

8 (G) The means by which the school will achieve a racial and  
9 ethnic balance among its pupils that is reflective of the general  
10 population residing within the territorial jurisdiction of the school  
11 district to which the charter petition is submitted.

12 (H) Admission requirements, if applicable.

13 (I) The manner in which annual, independent, financial audits  
14 shall be conducted, which shall employ generally accepted  
15 auditing standards or government auditing standards, and the  
16 manner in which audit exceptions and deficiencies shall be  
17 resolved to the satisfaction of the chartering authority.

18 (J) The procedures by which pupils can be suspended or  
19 expelled.

20 (K) The manner by which staff members of the charter schools  
21 will be covered by the State Teachers' Retirement System, the  
22 Public Employees' Retirement System, or federal social security.

23 (L) The public school attendance alternatives for pupils  
24 residing within the school district who choose not to attend  
25 charter schools.

26 (M) A description of the rights of any employee of the school  
27 district upon leaving the employment of the school district to  
28 work in a charter school, and of any rights of return to the school  
29 district after employment at a charter school.

30 (N) The procedures to be followed by the charter school and  
31 the entity granting the charter to resolve disputes relating to  
32 provisions of the charter.

33 (O) A declaration whether or not the charter school shall be  
34 deemed the exclusive public school employer of the employees  
35 of the charter school for the purposes of the Educational  
36 Employment Relations Act (Chapter 10.7 (commencing with  
37 Section 3540) of Division 4 of Title 1 of the Government Code).

38 (P) A description of the procedures to be used if the charter  
39 school closes. The procedures shall ensure a final audit of the  
40 school to determine the disposition of all assets and liabilities of

1 the charter school, including plans for disposing of any net assets  
2 and for the maintenance and transfer of pupil records.

3 (Q) An assurance of compliance with the Ralph M. Brown Act  
4 (Chapter 9 (commencing with Section 54950) of Division 2 of  
5 Title 5 of the Government Code).

6 (c) (1) Charter schools shall meet all statewide standards and  
7 conduct the pupil assessments required pursuant to Section  
8 60605 and any other statewide standards authorized in statute or  
9 pupil assessments applicable to pupils in noncharter public  
10 schools.

11 (2) Charter schools shall, on a regular basis, consult with their  
12 parents and teachers regarding the school's educational  
13 programs.

14 (d) (1) In addition to any other requirement imposed under  
15 this part, a charter school shall be nonsectarian in its programs,  
16 admission policies, employment practices, and all other  
17 operations, shall not charge tuition, and shall not discriminate  
18 against any pupil on the basis of ethnicity, national origin,  
19 gender, or disability. Except as provided in paragraph (2),  
20 admission to a charter school shall not be determined according  
21 to the place of residence of the pupil, or of his or her parent or  
22 guardian, within this state, except that any existing public school  
23 converting partially or entirely to a charter school under this part  
24 shall adopt and maintain a policy giving admission preference to  
25 pupils who reside within the former attendance area of that  
26 public school.

27 (2) (A) A charter school shall admit all pupils who wish to  
28 attend the school.

29 (B) However, if the number of pupils who wish to attend the  
30 charter school exceeds the school's capacity, attendance, except  
31 for existing pupils of the charter school, shall be determined by a  
32 public random drawing. Preference shall be extended to pupils  
33 currently attending the charter school and pupils who reside in  
34 the district except as provided for in Section 47614.5. Other  
35 preferences may be permitted by the chartering authority on an  
36 individual school basis and only if consistent with the law.

37 (C) In the event of a drawing, the chartering authority shall  
38 make reasonable efforts to accommodate the growth of the  
39 charter school and, in no event, shall take any action to impede

1 the charter school from expanding enrollment to meet pupil  
2 demand.

3 (3) If a pupil is expelled from the charter school, the charter  
4 school shall notify the school district of residence of the pupil.  
5 The charter school shall provide, upon request, the school district  
6 of residence of a pupil who is expelled or leaves the charter  
7 school without graduating or completing the school year for any  
8 reason, with a copy of the cumulative file of the pupil, including  
9 a transcript of grades or a report card, and health information.

10 (e) No governing board of a school district shall require any  
11 employee of the school district to be employed in a charter  
12 school.

13 (f) No governing board of a school district shall require any  
14 pupil enrolled in the school district to attend a charter school.

15 (g) The governing board of a school district shall require that  
16 the petitioner or petitioners provide information regarding the  
17 proposed operation and potential effects of the school, including,  
18 but not limited to, the facilities to be utilized by the school, the  
19 manner in which administrative services of the school are to be  
20 provided, and potential civil liability effects, if any, upon the  
21 school and upon the school district. The description of the  
22 facilities to be used by the charter school shall specify where the  
23 school intends to locate. The petitioner or petitioners shall also be  
24 required to provide financial statements that include a proposed  
25 first-year operational budget, including startup costs, and  
26 cashflow and financial projections for the first three years of  
27 operation.

28 (h) In reviewing petitions for the establishment of charter  
29 schools within the school district, the school district governing  
30 board shall give preference to petitions that demonstrate the  
31 capability to provide comprehensive learning experiences to  
32 pupils identified by the petitioner or petitioners as academically  
33 low achieving pursuant to the standards established by the  
34 department under Section 54032.

35 (i) Upon the approval of the petition by the governing board of  
36 the school district, the petitioner or petitioners shall provide  
37 written notice of that approval, including a copy of the petition,  
38 to the applicable county superintendent of schools, the  
39 department, and the State Board of Education.

1 (j) (1) If the governing board of a school district denies a  
2 petition, the petitioner may elect to submit the petition for the  
3 establishment of a charter school to the county board of  
4 education. The county board of education shall review the  
5 petition pursuant to subdivision (b). If the petitioner elects to  
6 submit a petition for establishment of a charter school to the  
7 county board of education and the county board of education  
8 denies the petition, the petitioner may file a petition for  
9 establishment of a charter school with the State Board of  
10 Education, and the state board may approve the petition, in  
11 accordance with subdivision (b). Any charter school that receives  
12 approval of its petition from a county board of education or from  
13 the State Board of Education on appeal shall be subject to the  
14 same requirements concerning geographic location that it would  
15 otherwise be subject to if it receives approval from the entity to  
16 whom it originally submits its petition. A charter petition that is  
17 submitted to either a county board of education or to the State  
18 Board of Education shall meet all otherwise applicable petition  
19 requirements, including the identification of the proposed site or  
20 sites where the charter school will operate.

21 (2) In assuming its role as a chartering agency, the State Board  
22 of Education shall develop criteria to be used for the review and  
23 approval of charter school petitions presented to the State Board  
24 of Education. The criteria shall address all elements required for  
25 charter approval, as identified in subdivision (b) of Section  
26 47605 and shall define “reasonably comprehensive” as used in  
27 paragraph (5) of subdivision (b) of Section 47605 in a way that is  
28 consistent with the intent of this part. Upon satisfactory  
29 completion of the criteria, the State Board of Education shall  
30 adopt the criteria on or before June 30, 2001.

31 (3) A charter school for which a charter is granted by either  
32 the county board of education or the State Board of Education  
33 based on an appeal pursuant to this subdivision shall qualify fully  
34 as a charter school for all funding and other purposes of this part.

35 (4) If either the county board of education or the State Board  
36 of Education fails to act on a petition within 120 days of receipt,  
37 the decision of the governing board of the school district, to deny  
38 a petition shall, thereafter, be subject to judicial review.

39 (5) The State Board of Education shall adopt regulations  
40 implementing this subdivision.

1 (6) Upon the approval of the petition by the county board of  
2 education, the petitioner or petitioners shall provide written  
3 notice of that approval, including a copy of the petition to the  
4 department and the State Board of Education.

5 (k) (1) The State Board of Education may, by mutual  
6 agreement, designate its supervisory and oversight  
7 responsibilities for a charter school approved by the State Board  
8 of Education to any local education agency in the county in  
9 which the charter school is located or to the governing board of  
10 the school district that first denied the petition.

11 (2) The designated local education agency shall have all  
12 monitoring and supervising authority of a chartering agency,  
13 including, but not limited to, powers and duties set forth in  
14 Section 47607, except the power of revocation, which shall  
15 remain with the State Board of Education.

16 (3) A charter school that has been granted its charter through  
17 an appeal to the State Board of Education and elects to seek  
18 renewal of its charter shall, prior to expiration of the charter,  
19 submit its petition for renewal to the governing board of the  
20 school district that initially denied the charter. If the governing  
21 board of the school district denies the school's petition for  
22 renewal, the school may petition the State Board of Education for  
23 renewal of its charter.

24 (l) Teachers in charter schools shall be required to hold a  
25 Commission on Teacher Credentialing certificate, permit, or  
26 other document equivalent to that which a teacher in other public  
27 schools would be required to hold. These documents shall be  
28 maintained on file at the charter school and shall be subject to  
29 periodic inspection by the chartering authority. It is the intent of  
30 the Legislature that charter schools be given flexibility with  
31 regard to noncore, noncollege preparatory courses.

32 (m) A charter school shall transmit a copy of its annual,  
33 independent, financial audit report for the preceding fiscal year,  
34 as described in subparagraph (I) of paragraph (5) of subdivision  
35 (b), to its chartering entity, the Controller, the county  
36 superintendent of schools of the county in which the charter  
37 school is sited, unless the county board of education of the  
38 county in which the charter school is sited is the chartering  
39 entity, and the department by December 15 of each year. This  
40 subdivision does not apply if the audit of the charter school is

1 encompassed in the audit of the chartering entity pursuant to  
2 Section 41020.

3 SEC. 4. Section 47605.6 of the Education Code is amended to  
4 read:

5 47605.6. (a) (1) In addition to the authority provided by  
6 Section 47605.5, a county board of education may also approve a  
7 petition for the operation of a charter school that operates at one  
8 or more sites within the geographic boundaries of the county and  
9 that provides instructional services that are not generally  
10 provided by a county office of education. A county board of  
11 education may only approve a countywide charter if it finds, in  
12 addition to the other requirements of this section, that the  
13 educational services to be provided by the charter school will  
14 offer services to a pupil population that will benefit from those  
15 services and that cannot be served as well by a charter school that  
16 operates in only one school district in the county. A petition for  
17 the establishment of a countywide charter school pursuant to this  
18 subdivision may be circulated throughout the county by any one  
19 or more persons seeking to establish the charter school. The  
20 petition may be submitted to the county board of education for  
21 review after either of the following conditions are met:

22 (A) The petition has been signed by a number of parents or  
23 guardians of pupils residing within the county that is equivalent  
24 to at least one-half of the number of pupils that the charter school  
25 estimates will enroll in the school for its first year of operation  
26 and each of the school districts where the charter school  
27 petitioner proposes to operate a facility has received at least 30  
28 days notice of the petitioner's intent to operate a school pursuant  
29 to this section.

30 (B) The petition has been signed by a number of teachers that  
31 is equivalent to at least one-half of the number of teachers that  
32 the charter school estimates will be employed at the school  
33 during its first year of operation and each of the school districts  
34 where the charter school petitioner proposes to operate a facility  
35 has received at least 30 days notice of the petitioner's intent to  
36 operate a school pursuant to this section.

37 (2) An existing public school may not be converted to a  
38 charter school in accordance with this section.

39 (3) After receiving approval of its petition, a charter school  
40 that proposes to establish operations at additional sites within the

1 geographic boundaries of the county board of education shall  
2 notify the school districts where those sites will be located. The  
3 charter school shall also request a material revision of its charter  
4 by the county board of education that approved its charter and the  
5 county board shall consider whether to approve those additional  
6 locations at an open, public meeting, held no sooner than 30 days  
7 following notification of the school districts where the sites will  
8 be located. If approved, the location of the approved sites shall be  
9 a material revision of the school's approved charter.

10 (4) A petition shall include a prominent statement indicating  
11 that a signature on the petition means that the parent or guardian  
12 is meaningfully interested in having his or her child or ward  
13 attend the charter school, or in the case of a teacher's signature,  
14 means that the teacher is meaningfully interested in teaching at  
15 the charter school. The proposed charter shall be attached to the  
16 petition.

17 (b) No later than 60 days after receiving a petition, in  
18 accordance with subdivision (a), the county board of education  
19 shall hold a public hearing on the provisions of the charter, at  
20 which time the county board of education shall consider the level  
21 of support for the petition by teachers, parents or guardians, and  
22 the school districts where the charter school petitioner proposes  
23 to place school facilities. Following review of the petition and the  
24 public hearing, the county board of education shall either grant or  
25 deny the charter within 90 days of receipt of the petition.  
26 However, this date may be extended by an additional 30 days if  
27 both parties agree to the extension. A county board of education  
28 may impose any additional requirements beyond those required  
29 by this section that it considers necessary for the sound operation  
30 of a countywide charter school. A county board of education may  
31 grant a charter for the operation of a school under this part only if  
32 the board is satisfied that granting the charter is consistent with  
33 sound educational practice and that the charter school has  
34 reasonable justification for why it could not be established by  
35 petition to a school district pursuant to Section 47605. The  
36 county board of education shall deny a petition for the  
37 establishment of a charter school if the board finds, one or more  
38 of the following:

39 (1) The charter school presents an unsound educational  
40 program for the pupils to be enrolled in the charter school.

1 (2) The petitioners are demonstrably unlikely to successfully  
2 implement the program set forth in the petition.

3 (3) The petition does not contain the number of signatures  
4 required by subdivision (a).

5 (4) The petition does not contain an affirmation of each of the  
6 conditions described in subdivision (d).

7 (5) The petition does not contain reasonably comprehensive  
8 descriptions of all of the following:

9 (A) A description of the educational program of the school,  
10 designed, among other things, to identify those whom the school  
11 is attempting to educate, what it means to be an “educated  
12 person” in the 21st century, and how learning best occurs. The  
13 goals identified in that program shall include the objective of  
14 enabling pupils to become self-motivated, competent, and  
15 lifelong learners.

16 (B) The measurable pupil outcomes identified for use by the  
17 charter school. “Pupil outcomes,” for purposes of this part,  
18 means the extent to which all pupils of the school demonstrate  
19 that they have attained the skills, knowledge, and attitudes  
20 specified as goals in the school’s educational program.

21 (C) The method by which pupil progress in meeting those  
22 pupil outcomes is to be measured.

23 (D) The location of each charter school facility that the  
24 petitioner proposes to operate.

25 (E) The governance structure of the school, including, but not  
26 limited to, the process to be followed by the school to ensure  
27 parental involvement.

28 (F) The qualifications to be met by individuals to be employed  
29 by the school.

30 (G) The procedures that the school will follow to ensure the  
31 health and safety of pupils and staff. These procedures shall  
32 include the requirement that each employee of the school furnish  
33 the school with a criminal record summary as described in  
34 Section 44237.

35 (H) The means by which the school will achieve a racial and  
36 ethnic balance among its pupils that is reflective of the general  
37 population residing within the territorial jurisdiction of the school  
38 district to which the charter petition is submitted.

39 (I) The manner in which annual, independent, financial audits  
40 shall be conducted, in accordance with regulations established by



1 the State Board of Education, and the manner in which audit  
2 exceptions and deficiencies shall be resolved.

3 (J) The procedures by which pupils can be suspended or  
4 expelled.

5 (K) The manner by which staff members of the charter schools  
6 will be covered by the State Teachers' Retirement System, the  
7 Public Employees' Retirement System, or federal social security.

8 (L) The procedures to be followed by the charter school and  
9 the county board of education to resolve disputes relating to  
10 provisions of the charter.

11 (M) A declaration whether or not the charter school shall be  
12 deemed the exclusive public school employer of the employees  
13 of the charter school for the purposes of the Educational  
14 Employment Relations Act (Chapter 10.7 (commencing with  
15 Section 3540) of Division 4 of Title 1 of the Government Code).

16 (6) Any other basis that the board finds justifies the denial of  
17 the petition.

18 (c) A county board of education that approves a petition for  
19 the operation of a countywide charter may, as a condition of  
20 charter approval, enter into an agreement with a third party, at the  
21 expense of the charter school, to oversee, monitor, and report to  
22 the county board of education on the operations of the charter  
23 school. The county board of education may prescribe the aspects  
24 of the charter school's operations to be monitored by the third  
25 party and may prescribe appropriate requirements regarding the  
26 reporting of information concerning the operations of the charter  
27 school to the county board of education.

28 (d) (1) Charter schools shall meet all statewide standards and  
29 conduct the pupil assessments required pursuant to Section  
30 60605 and any other statewide standards authorized in statute or  
31 pupil assessments applicable to pupils in noncharter public  
32 schools.

33 (2) Charter schools shall on a regular basis consult with their  
34 parents and teachers regarding the school's educational  
35 programs.

36 (e) (1) In addition to any other requirement imposed under  
37 this part, a charter school shall be nonsectarian in its programs,  
38 admission policies, employment practices, and all other  
39 operations, shall not charge tuition, and shall not discriminate  
40 against any pupil on the basis of ethnicity, national origin,

1 gender, or disability. Except as provided in paragraph (2),  
2 admission to a charter school shall not be determined according  
3 to the place of residence of the pupil, or of his or her parent or  
4 guardian, within this state.

5 (2) (A) A charter school shall admit all pupils who wish to  
6 attend the school.

7 (B) However, if the number of pupils who wish to attend the  
8 charter school exceeds the school's capacity, attendance, except  
9 for existing pupils of the charter school, shall be determined by a  
10 public random drawing. Preference shall be extended to pupils  
11 currently attending the charter school and pupils who reside in  
12 the county except as provided for in Section 47614.5. Other  
13 preferences may be permitted by the chartering authority on an  
14 individual school basis and only if consistent with the law.

15 (C) In the event of a drawing, the county board of education  
16 shall make reasonable efforts to accommodate the growth of the  
17 charter school and, in no event, shall take any action to impede  
18 the charter school from expanding enrollment to meet pupil  
19 demand.

20 (f) No county board of education shall require any employee  
21 of the county or a school district to be employed in a charter  
22 school.

23 (g) No county board of education shall require any pupil  
24 enrolled in a county program to attend a charter school.

25 (h) The county board of education shall require that the  
26 petitioner or petitioners provide information regarding the  
27 proposed operation and potential effects of the school, including,  
28 but not limited to, the facilities to be utilized by the school, the  
29 manner in which administrative services of the school are to be  
30 provided, and potential civil liability effects, if any, upon the  
31 school, any school district where the charter school may operate  
32 and upon the county board of education. The petitioner or  
33 petitioners shall also be required to provide financial statements  
34 that include a proposed first-year operational budget, including  
35 startup costs, and cashflow and financial projections for the first  
36 three years of operation.

37 (i) In reviewing petitions for the establishment of charter  
38 schools within the county, the county board of education shall  
39 give preference to petitions that demonstrate the capability to  
40 provide comprehensive learning experiences to pupils identified

1 by the petitioner or petitioners as academically low achieving  
2 pursuant to the standards established by the State Department of  
3 Education under Section 54032.

4 (j) Upon the approval of the petition by the county board of  
5 education, the petitioner or petitioners shall provide written  
6 notice of that approval, including a copy of the petition, to the  
7 school districts within the county, the Superintendent of Public  
8 Instruction and to the State Board of Education.

9 (k) If a county board of education denies a petition, the  
10 petitioner may not elect to submit the petition for the  
11 establishment of the charter school to the State Board of  
12 Education.

13 (l) Teachers in charter schools shall be required to hold a  
14 Commission on Teacher Credentialing certificate, permit, or  
15 other document equivalent to that which a teacher in other public  
16 schools would be required to hold. These documents shall be  
17 maintained on file at the charter school and shall be subject to  
18 periodic inspection by the chartering authority. It is the intent of  
19 the Legislature that charter schools be given flexibility with  
20 regard to noncore, noncollege preparatory courses.

21 (m) A charter school shall transmit a copy of its annual,  
22 independent, financial audit report for the preceding fiscal year,  
23 as described in subparagraph (I) of paragraph (5) of subdivision  
24 (b), to the county office of education, State Controller and the  
25 department by December 15 of each year. This subdivision shall  
26 not apply if the audit of the charter school is encompassed in the  
27 audit of the chartering entity pursuant to Section 41020.

28 SEC. 5. Section 47607 of the Education Code is amended to  
29 read:

30 47607. (a) (1) A charter may be granted pursuant to Sections  
31 47605, 47605.5, and 47606 for a period not to exceed five years.  
32 A charter granted by a school district governing board, a county  
33 board of education or the State Board of Education may be  
34 granted one or more subsequent renewals by that entity. Each  
35 renewal shall be for a period of five years . A material revision of  
36 the provisions of a charter petition may be made only with the  
37 approval of the authority that granted the charter. The authority  
38 that granted the charter may inspect or observe any part of the  
39 charter school at any time.

(2) Notwithstanding paragraph (1), a charter may be renewed for a period of no less than five years and no more than 15 years if the charter school has demonstrated to its chartering authority that the charter school will apply for a loan from a lending institution, and that a renewal period of more than five years will result in a more favorable percentage rate and terms for that loan. A chartering authority that renews a charter for a period of more than five years shall conduct a review of the charter school at least once every five years. *This paragraph shall not be construed to alter existing law regarding the authority of a school district to revoke the charter of a charter school.*

(3) Renewals and material revisions of charters shall be governed by the standards and criteria in Section 47605.

(b) Commencing on January 1, 2005, or after a charter school has been in operation for four years, whichever is later, a charter school shall meet at least one of the following criteria prior to receiving a charter renewal pursuant to paragraph (1) of subdivision (a):

(1) Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.

(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.

(3) Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

(4) (A) The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

(B) The determination made pursuant to this paragraph shall be based upon all of the following:

(i) Documented and clear and convincing data.

(ii) Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Article 4 (commencing with Section 60640) for

1 demographically similar pupil populations in the comparison  
2 schools.

3 (iii) Information submitted by the charter school.

4 (C) A chartering authority shall submit to the superintendent  
5 copies of supporting documentation and a written summary of  
6 the basis for any determination made pursuant to this paragraph.  
7 The superintendent shall review the materials and make  
8 recommendations to the chartering authority based on that  
9 review. The review may be the basis for a recommendation made  
10 pursuant to Section 47604.5.

11 (D) A charter renewal may not be granted to a charter school  
12 prior to 30 days after that charter school submits materials  
13 pursuant to this paragraph.

14 (5) Has qualified for an alternative accountability system  
15 pursuant to subdivision (h) of Section 52052.

16 (c) A charter may be revoked by the authority that granted the  
17 charter under this chapter if the authority finds that the charter  
18 school did any of the following:

19 (1) Committed a material violation of any of the conditions,  
20 standards, or procedures set forth in the charter.

21 (2) Failed to meet or pursue any of the pupil outcomes  
22 identified in the charter.

23 (3) Failed to meet generally accepted accounting principles, or  
24 engaged in fiscal mismanagement.

25 (4) Violated any provision of law.

26 (d) Prior to revocation, the authority that granted the charter  
27 shall notify the charter public school of any violation of this  
28 section and give the school a reasonable opportunity to cure the  
29 violation, unless the authority determines, in writing, that the  
30 violation constitutes a severe and imminent threat to the health or  
31 safety of the pupils.

32 SEC. 5.5. Section 47607 of the Education Code is amended to  
33 read:

34 47607. (a) (1) A charter may be granted pursuant to Sections  
35 47605, 47605.5, and 47606 for a period not to exceed five years.  
36 A charter granted by a school district governing board, a county  
37 board of education or the State Board of Education may be  
38 granted one or more subsequent renewals by that entity. Each  
39 renewal shall be for a period of five years. A material revision of  
40 the provisions of a charter petition may be made only with the

1 approval of the authority that granted the charter. The authority  
2 that granted the charter may inspect or observe any part of the  
3 charter school at any time.

4 (2) As an alternative to paragraph (1), a charter may be  
5 renewed for a period of between two and four years. In granting  
6 this renewal, a chartering authority shall make findings with  
7 regard to inadequacies that justified the renewal of a charter for a  
8 period of less than five years, and shall provide the charter school  
9 with a plan for its improvement. A charter may only be renewed  
10 pursuant to this paragraph once in a five-year period. If a charter  
11 is renewed pursuant to this paragraph, the charter school may  
12 appeal that action pursuant to subdivision (j) of Section 47605.

13 (3) Notwithstanding paragraph (1), a charter may be renewed  
14 for a period of no less than five years and no more than 15 years  
15 if the charter school has demonstrated to its chartering authority  
16 that the charter school will apply for a loan from a lending  
17 institution, and that a renewal period of more than five years will  
18 result in a more favorable percentage rate and terms for that loan.  
19 A chartering authority that renews a charter for a period of more  
20 than five years shall conduct a review of the charter school at  
21 least once every five years. *This paragraph shall not be*  
22 *construed to alter existing law regarding the authority of a*  
23 *school district to revoke the charter of a charter school.*

24 (4) Renewals and material revisions of charters shall be  
25 governed by the standards and criteria in Section 47605.

26 (b) Commencing on January 1, 2005, or after a charter school  
27 has been in operation for four years, whichever is later, a charter  
28 school shall meet at least one of the following criteria prior to  
29 receiving a charter renewal pursuant to paragraph (1) of  
30 subdivision (a):

31 (1) Attained its Academic Performance Index (API) growth  
32 target in the prior year or in two of the last three years, or in the  
33 aggregate for the prior three years.

34 (2) Ranked in deciles 4 to 10, inclusive, on the API in the prior  
35 year or in two of the last three years.

36 (3) Ranked in deciles 4 to 10, inclusive, on the API for a  
37 demographically comparable school in the prior year or in two of  
38 the last three years.

39 (4) (A) The entity that granted the charter determines that the  
40 academic performance of the charter school is at least equal to

1 the academic performance of the public schools that the charter  
2 school pupils would otherwise have been required to attend, as  
3 well as the academic performance of the schools in the school  
4 district in which the charter school is located, taking into account  
5 the composition of the pupil population that is served at the  
6 charter school.

7 (B) The determination made pursuant to this paragraph shall  
8 be based upon all of the following:

9 (i) Documented and clear and convincing data.

10 (ii) Pupil achievement data from assessments, including, but  
11 not limited to, the Standardized Testing and Reporting Program  
12 established by Article 4 (commencing with Section 60640) for  
13 demographically similar pupil populations in the comparison  
14 schools.

15 (iii) Information submitted by the charter school.

16 (C) A chartering authority shall submit to the Superintendent  
17 copies of supporting documentation and a written summary of  
18 the basis for any determination made pursuant to this paragraph.  
19 The Superintendent shall review the materials and make  
20 recommendations to the chartering authority based on that  
21 review. The review may be the basis for a recommendation made  
22 pursuant to Section 47604.5.

23 (D) A charter renewal may not be granted to a charter school  
24 prior to 30 days after that charter school submits materials  
25 pursuant to this paragraph.

26 (5) Has qualified for an alternative accountability system  
27 pursuant to subdivision (h) of Section 52052.

28 (c) A charter may be revoked by the authority that granted the  
29 charter under this chapter if the authority finds that the charter  
30 school did any of the following:

31 (1) Committed a material violation of any of the conditions,  
32 standards, or procedures set forth in the charter.

33 (2) Failed to meet or pursue any of the pupil outcomes  
34 identified in the charter.

35 (3) Failed to meet generally accepted accounting principles, or  
36 engaged in fiscal mismanagement.

37 (4) Violated any provision of law.

38 (d) Prior to revocation, the authority that granted the charter  
39 shall notify the charter public school of any violation of this  
40 section and give the school a reasonable opportunity to cure the

1 violation, unless the authority determines, in writing, that the  
2 violation constitutes a severe and imminent threat to the health or  
3 safety of the pupils.

4 SEC. 6. Section 47634.2 of the Education Code is amended to  
5 read:

6 47634.2. (a) (1) Notwithstanding any other provision of law,  
7 the amount of funding to be allocated to a charter school on the  
8 basis of average daily attendance that is generated by pupils  
9 engaged in nonclassroom-based instruction, as defined by  
10 paragraph (2) of subdivision (d) of Section 47612.5, including  
11 funding provided on the basis of average daily attendance  
12 pursuant to Sections 47613.1, 47633, 47634, and 47664, shall be  
13 adjusted by the State Board of Education. The State Board of  
14 Education shall adopt regulations setting forth criteria for the  
15 determination of funding for nonclassroom-based instruction, at  
16 a minimum the regulation shall specify that the  
17 nonclassroom-based instruction is conducted for the instructional  
18 benefit of the pupil and substantially dedicated to that function.  
19 In developing these criteria and determining the amount of  
20 funding to be allocated to a charter school pursuant to this  
21 section, the State Board of Education shall consider, among other  
22 factors it deems appropriate, the amount of the charter school's  
23 total budget expended on certificated employee salaries and  
24 benefits and on schoolsites, as defined in paragraph (3) of  
25 subdivision (d) of Section 47612.5, and the teacher-to-pupil ratio  
26 in the school.

27 (2) For the 2001-02 fiscal year only, the amount of funding  
28 determined by the State Board of Education pursuant to this  
29 section shall not be less than 90 percent of the unadjusted amount  
30 to which a charter school would otherwise be entitled on the  
31 basis of average daily attendance.

32 (3) For the 2002-03 fiscal year, the amount of funding  
33 determined by the State Board of Education pursuant to this  
34 section shall not be more than 80 percent of the unadjusted  
35 amount to which a charter school would otherwise be entitled,  
36 unless the State Board of Education determines that a greater or  
37 lesser amount is appropriate based on the criteria specified in  
38 paragraph (1) of subdivision (a).

39 (4) For the 2003-04 fiscal year and each fiscal year thereafter,  
40 the amount of funding determined by the State Board of



1 Education pursuant to this section shall not be more than 70  
2 percent of the unadjusted amount to which a charter school  
3 would otherwise be entitled, unless the State Board of Education  
4 determines that a greater or lesser amount is appropriate based on  
5 the criteria specified in paragraph (1) of subdivision (a).

6 (5) This section does not authorize the board to adjust the  
7 amount of funding a charter school receives on the basis of  
8 average daily attendance generated through classroom-based  
9 instruction, as defined for purposes of calculating average daily  
10 attendance for classroom-based instruction apportionments by  
11 paragraph (1) of subdivision (d) of Section 47612.5.

12 (b) (1) The State Board of Education shall appoint an  
13 advisory committee to recommend criteria to the board in  
14 accordance with this section if it has not done so by the effective  
15 date of the act adding this section. The advisory committee shall  
16 include, but is not limited to, representatives from school district  
17 superintendents, charter schools, teachers, parents, members of  
18 the governing boards of school districts, county superintendents  
19 of schools, and the Superintendent of Public Instruction.

20 (2) If a charter school submits a substantially complete request  
21 for a determination for funding by February 13, 2002, and the  
22 State Board of Education does not act on that request by March  
23 19, 2002, full funding is automatically granted for the 2001-02  
24 fiscal year, but the charter school shall reapply for a  
25 determination for funding for the 2002-03 fiscal year.

26 (3) The determination for funding shall be on a percentage  
27 basis and the superintendent shall implement the determination  
28 for funding by reducing the charter school's reported average  
29 daily attendance by the determination for funding percentage  
30 specified by the State Board of Education.

31 (4) If the State Board of Education denies request for a  
32 determination for funding or provides a reduction as authorized  
33 by subdivision (a), the board shall, in writing, give the reasons  
34 for its denial or reduction and, if appropriate, may describe how  
35 any deficiencies or problems may be addressed.

36 (c) Each charter school offering nonclassroom-based  
37 instruction shall, in each report provided to the Superintendent of  
38 Public Instruction for apportionment purposes, identify the  
39 portion of its average daily attendance that is generated through

1 nonclassroom-based instruction as defined in paragraph (2) of  
2 subdivision (d) of Section 47612.5.

3 (d) Notwithstanding any other provision of law, charter  
4 schools are subject, with regard to subdivisions (c) and (d) of  
5 Section 47612.5 and this section, to audits conducted pursuant to  
6 Section 41020.

7 SEC. 7. Section 5.5 of this bill incorporates amendments to  
8 Section 47607 of the Education Code proposed by both this bill  
9 and Senate Bill 166. It shall only become operative if (1) both  
10 bills are enacted and become effective on or before January 1,  
11 2006, (2) each bill amends Section 47607 of the Education Code,  
12 and (3) this bill is enacted after Senate Bill 166, in which case  
13 Section 5 of this bill shall not become operative.

14 SEC. 8. If the Commission on State Mandates determines that  
15 this act contains costs mandated by the state, reimbursement to  
16 local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.